

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

IPCOM GMBH & CO. KG,

Plaintiff,

V.

AT&T INC., et al

**VERIZON COMMUNICATIONS INC,
et al**

Defendants,

**NOKIA OF AMERICA
CORPORATION,**

ERICSSON INC.,

Intervenors.

Case No. 2:20-cv-00322-JRG
(LEAD CASE)

Case No. 2:20-CV-00323-JRG
(MEMBER CASE)

**MINUTES FOR PRETRIAL CONFERENCE DAY 1
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP
February 28, 2022**

OPEN: 10: 06 AM

ADJOURN: 05:01 PM

ATTORNEYS FOR PLAINTIFF:

See attached

ATTORNEYS FOR DEFENDANTS:

See attached.

ATTORNEYS FOR INTERVENORS:

See attached.

LAW CLERK:

Cody Carter

COURT REPORTER:

Cindy Donald

COURTROOM DEPUTY:

Andrea Brunson, CP

<u>TIME</u>	<u>MINUTES</u>
10:06 AM	Court opened.
10:07 AM	Court called for announcements from counsel.

<u>TIME</u>	<u>MINUTES</u>
10:10 AM	Court provided instructions and housekeeping matters to the parties. A second day of pretrial conference will be held tomorrow, March 1, 2022. Case is scheduled for jury selection and trial on Monday, April 4, 2022. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. Counsel will be given 30 minutes per side for <i>voir dire</i> . The parties will be given 14 hours per side for the jury trial portion. Opening will be 30 minutes per side. Closings will be 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day before the day such deposition is to be used. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and Plaintiff rests any rebuttal case. Court will hold an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court instructed counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Counsel instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 noon on Monday, March 28, 2022. Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. A reminder that expert witnesses are confined to the four corners of their report.
10:26 AM	Court provided additional instructions and information re: public health protocols and provisions to be implemented during jury selection and trial.
10:32 AM	Court proceeded with hearing argument re: disputed dispositive motions:
10:34 AM	[SEALED] Defendants' and Intervenor's Motion to Summary Judgment of Unenforceability of the Patents-in-Suit or, In the Alternative, an Adverse Inference Jury Instruction (Dkt. No. 187).
10:34 AM	Mr. Budwin presented argument for Defendants-Intervenors.
11:25 AM	Responsive argument by Mr. Black for the Plaintiff.
11:45 AM	Rebuttal argument presented by Mr. Budwin for Defendants-Intervenors.
11:46 AM	Additional responsive argument by Mr. Black for the Plaintiff.
11:46 AM	Court DENIED Dkt. No. 187.
11:49 AM	Recess for lunch.
12:49 PM	Court reconvened.

<u>TIME</u>	<u>MINUTES</u>
12:50 PM	No argument presented re: [SEALED] Defendants' and Intervenor's Motion for, and Brief in Support of, Dismissal of Counts III and IV for Lack of Statutory, or Prudential, Standing (Dkt. No. 160). Court DENIED.
12:51 PM	Court heard argument re: [SEALED] Intervenor's Motion for Partial Summary Judgment of Non-Infringement Based on License and Exhaustion (Dkt. No. 172).
12:51 PM	Mr. Achey presented argument for Intervenor.
01:02 PM	Responsive argument by Mr. Black for the Plaintiff.
01:03 PM	Court DENIED Dkt. No. 172.
01:04 PM	Court heard argument re: Defendants' Motion for Summary Judgment of Ineligibility of U.S. Patent Nos. 7,333,822 and 10,382,909 Under 35 U.S.C. § 101 (Dkt. No. 174).
01:04 PM	Mr. Pandya presented argument for the Defendants.
01:10 PM	Responsive argument by Mr. Plies for the Plaintiff.
01:21 PM	Rebuttal argument presented by Mr. Pandya for Defendants.
01:27 PM	Court DENIED-IN-PART and CARRIED Dkt. No. 174.
01:28 PM	Court heard argument re: [SEALED] IPCom, GmbH & Co. KG's Motion to Strike the Expert Reports of John Bone (Dkt. No. 181).
01:29 PM	Mr. Black presented argument for the Plaintiff.
01:40 PM	Responsive argument by Mr. Powers for the Defendants-Intervenors.
01:50 PM	Rebuttal argument presented by Mr. Black for Plaintiff.
01:51 PM	Court made rulings re: Dkt. No. 181.
01:57 PM	Court heard argument re: [SEALED] Plaintiff IPCom's Motion to Strike Portions of Dr. Daniel van der Weide's Invalidity Expert Report (Dkt. No. 189).
01:58 PM	Mr. Fisher presented argument for the Plaintiff.
02:08 PM	Responsive argument by Mr. Deane for the Defendants.
02:17 PM	Rebuttal argument presented by Mr. Fisher for Plaintiff.
02:18 PM	Court DENIED Dkt. No. 189
02:19 PM	No argument presented re: [SEALED] IPCom, GmbH & Co. KG's Motion to Strike Paragraph 154 of the Expert Report of Dr. Stephen Wicker (Dkt. No. 188). Court GRANTED Dkt. No. 188 with instructions and modifications set forth in the record.
02:21 PM	Court heard argument re: [SEALED] Plaintiff IPCom's Motion for Partial Summary Judgment on Defendants' Equitable Estoppel, Waiver and Acquiescence Affirmative Defenses (Dkt. No. 182).
02:21 PM	Mr. Edwards presented argument for the Plaintiff. Mr. Matthews on behalf of Defendants clarified agreements re: Dkt. No. 182.
02:24 PM	Court made rulings re: Dkt. No. 182. Continuation of argument re: remaining issues re: Dkt. No. 182.
02:30 PM	Responsive argument by Mr. Matthews for the Defendants.
02:35 PM	Rebuttal argument presented by Mr. Edwards for Plaintiff.
02:36 PM	Court DENIED remaining issues re: Dkt. No. 182.
02:39 PM	Conclusion of argument re: dispositive motions.
02:39 PM	Court directed the parties to meet and confer re: disputed MILS subject to dispositive motion rulings.
02:40 PM	Recess.
03:27 PM	Court reconvened.

<u>TIME</u>	<u>MINUTES</u>
03:27 PM	Court to take-up MILs.
03:28 PM	Court GRANTED [SEALED] Agreed Motions <i>in Limine</i> (Dkt. No. 284) per agreement of the parties.
03:29 PM	Court proceeded to hear argument re: parties' remaining objections to MILs.
03:30 PM	Plaintiff's MIL 1: Argument presented.
03:32 PM	Court ruling: Plaintiff's MIL 1: GRANTED.
03:33 PM	Plaintiff's MIL 2: Argument presented.
03:34 PM	Court ruling: Plaintiff's MIL 2: GRANTED.
03:35 PM	Plaintiff's MIL 3: Agreement reached.
03:36 PM	Court ruling: Plaintiff's MIL 3: GRANTED per agreement.
03:36 PM	Plaintiff's MIL 4: Argument presented.
03:38 PM	Court ruling: Plaintiff's MIL 4: GRANTED.
03:41 PM	Plaintiff's MIL 5: Argument presented.
03:45 PM	Court ruling: Plaintiff's MIL 5: GRANTED.
03:45 PM	Plaintiff's MIL 6: Argument presented.
03:54 PM	Court's ruling: Plaintiff's MIL 6: GRANTED with instructions as set forth in the record.
03:55 PM	Plaintiff's MIL 7: Argument presented.
03:56 PM	Courtroom sealed
03:56 PM	Continuation of argument.
04:10 PM	Court's ruling: Plaintiff's MIL 7: GRANTED with instructions provided and set forth in the record.
04:11 PM	Courtroom unsealed
04:11 PM	Plaintiff's MIL 8: Withdrawn
04:12 PM	Court's ruling: Plaintiff's MIL 8: GRANTED per withdrawal.
04:12 PM	Plaintiff's MIL 9: Argument presented.
04:17 PM	Court's ruling: Plaintiff's MIL 9: DENIED.
04:18 PM	Plaintiff's MIL 10: Argument presented.
04:25 PM	Court's ruling: Plaintiff's MIL 10: GRANTED-IN-PART and DENIED-IN-PART.
04:27 PM	Plaintiff's MIL 11: Argument presented.
04:32 PM	Court's ruling: Plaintiff's MIL 11: GRANTED.
04:32 PM	Plaintiff's MIL 12: Withdrawn.
04:32 PM	Court's ruling: Plaintiff's MIL 12: GRANTED per withdrawal.
04:33 PM	Defendants-Intervenors' MIL 1: Argument presented.

<u>TIME</u>	<u>MINUTES</u>
04:39 PM	Court ruling: Defendants-Intervenors' MIL 1: GRANTED and mutual to both sides.
04:42 PM	Defendants-Intervenors' MIL 2: Argument presented.
04:52 PM	Court ruling: Defendants-Intervenors' MIL 2: GRANTED with instructions as set forth in the record.
04:54 PM	Defendants-Intervenors' MIL 3: Agreement reached.
04:54 PM	Court ruling: Defendants-Intervenors' MIL 3: GRANTED per agreement.
04:54 PM	Defendants-Intervenors' MIL 4: Argument presented.
04:59 PM	Court ruling: Defendants-Intervenors' MIL 4: DENIED.
04:59 PM	Conclusion of argument re: MILs.
04:59 PM	Court instructed the parties to continue their meet and confer efforts re: outstanding exhibit disputes for pre-admission. A second day of pretrial conference will begin at 9:00 AM tomorrow. Court instructed the parties to file a joint report by 10:00 PM tonight re: remaining exhibit disputes.
05:01 PM	Court adjourned.